

**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF TEXAS**

In re TERRY DEAN ANDERSON, JR

Case Number _____

PETITION FOR WRIT OF HABEAS CORPUS AD SUBJICIENDUM

I. VENUE

This lawsuit attacks the want of jurisdiction over the subject matter situs and over the person of the Petitioner in the federal court, pursuant to 28 U.S.C. § 2241(a), which prescribes:

Writs of habeas corpus may be granted by the Supreme Court, any Justice's thereof, the district courts and any circuit judge within their respective jurisdictions. The order of a circuit judge shall be entered in the records of the district court of the district wherein the restraint complained of is had.

II. SUBJECT MATTER JURISDICTION

This habeas corpus Petition is predicted upon Subsection (c), Subparagraphs (1), (2), and (3) to § 2241, which prescribes:

(c) The writ of habeas corpus shall not extend to a prisoner unless -

1. He is in custody under or by color of the authority of the United States or is committed for trial before some court thereof; or
2. He is in custody for an act done or omitted in pursuance of an Act of Congress, or an order, process, judgment or decree of a court or judge of the United States; or
3. He is in custody in violation of the Constitution or laws or treaties of the United States.

(A) The Petitioner attacks restraint against his liberty under pretrial release status by the United States District Court for the western District of Texas, Case No. DR:22-cr-01449-AM / 4:22-MJ-398

III. ABOUT THE PARTY

Terry Dean Anderson Jr, known from hereinafter as the Petitioner, resides in located within the Eastern District of Texas, for the purpose of federal habeas corpus venue.

IV. STATEMENT OF THE CASE AND THE NECESSITY FOR HABEAS CORPUS

This matter presents exceptional circumstances where the need for the remedy afforded by the writ of habeas corpus pursuant to 28 USC § 2241 (a), SEE - *Hill v. United States*, 368 U.S. 424 (1962) Id 428. [T]he statesmen who framed the Constitution were fully sensible, that from the complex character of government, it must fail unless the states mutually supported each other and the general government itself. The Federal Constitution places certain limits on the sovereign powers of the states and on the federal government, limits that are an essential part of the Framers' conception of national identity and Union.

V. BACKGROUND AND FACTS

On or about March 8, 2022 Mr. Anderson was operating his motor vehicle on a public transit way within the sovereign state of Texas. Mr. Anderson was then stopped by a member of the Texas State Highway Patrol within the parking lot of the Pizza Outpost located specifically at 302 W. Military Hwy, Bracketville, Texas 78832. The parking lot to the establishment was the actual place where the police engaged Mr. Anderson after having first activated emergency lights on or near the Military Hwy. which seized Mr. Anderson. Moreover, Mr. Anderson failed to be issued a citation for an associated infraction. Mr. Anderson was then searched and recovered

from his vehicle, a Smith & Wesson, Model Sigma .40 Cal handgun serial number DYH6862. On June 29, 2022 Mr. Anderson was indicted by a federal grand jury from the Western District of Texas on a single count of Felon in Possession of a Firearm pursuant to 18 U.S.C. §§ 922(g)(1) and 924(a)(2).

The locus of police contact and the ensuing place of contact with Mr. Anderson which predicates the federal indictment failed to be located within the statutory perimeters of federal extraterritorial subject-matter jurisdiction under 18 U.S.C. § 13(a).

VI. The United States of America, and the State of Texas, are both exclusive sovereigns which are governed by constitutional and statutory laws applicable to their territorial jurisdictions.

"The Forbearance which courts of coordinate jurisdiction, administer under a single system, exercise towards each other, whereby conflicts are voided, by avoiding interference with the process of each other, in a principle of comity, with perhaps no higher sanction than the utility which comes from Concord; but between State courts and those of the United States it is something more. It is a principle of right and of law, and therefore, of necessity. It leaves nothing to discretion or mere convenience. *These courts do not belong to the same system*, as far as their jurisdiction is concerned; and although they coexist in the same space, *they are independent, and have no common Superior*. They exercise jurisdiction, it is true, within the same territory, but not in the same plane; and when one takes into its jurisdiction a specific thing, that res is as much withdrawn from the judicial power of the other, as if it had been carried physically into a different territorial sovereignty." *Ponzi v. Fessenden*, 258 U.S. 254 (1922) Id 260-61. (Emp added).

The Constitutional sovereignty of the United States is established in Art. 1 § 8, cl 17, and codified by 18 U.S.C. § 7 (3), which prescribes in relevant parts -

The term "special maritime and territorial jurisdiction of the United States", as used in this title, includes:

Any lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof, or any place or otherwise acquired by the United States by consent of the legislature of the state in which the same

shall be, for the erection of a fort, magazine, arsenal, dockyard, or other needful building.

Title 18 U.S.C. § 13 (a), prescribes that -

Whoever within or upon any of the places now existing or hereafter reserved or acquired as provided in Section 7 of this title, or on, above, or below any portion of the territorial sea of the United States [**not within the jurisdiction of any state,**] commonwealth, territory, possession, or district is guilty of any act or omission which, although not made punishable if committed or omitted within the jurisdiction of the state, territory, possession, or district in which such place is situated, by the laws thereof enforced at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment. (Emp added)

In, *United States v. Griffen*, 18 U.S. 184 (1820), the Court established that the words "out of the jurisdiction of any particular State", as used synonymously in 18 U.S.C § 13, entitles an act for punishment of certain crimes against the United States, but "must be construed to mean, out of the jurisdiction of any particular state of the United States." *Id* at 204 (3). By enacting § 13, Congress established a range for criminal enforcement and sanctions that may be imposed within the geographical boundaries of federal extraterritorial jurisdiction. Congress was careful to articulate that, to enforce criminal laws under this Section, the criminal conduct must first be committed outside the territorial "jurisdiction of any state". Congress further mandated under this section, that the accused person must be charged and punished "upon a like offense" as if the criminal act [had] been committed within the jurisdiction of the particular state, commonwealth, territory, possession, or district. This is because, it is the States who exercise traditional police powers to define the criminal law and to protect the health, safety and welfare of their citizens. *Gonzales v. Raich*, 545 U.S. 1 (2005) *Id* at 42.

Texas' sovereignty is well established within the Constitution of the State of Texas at Art.1 § 1, which prescribes -

Sec 1. Freedom and Sovereignty of the State - Texas is a free and independent state, subject only to the Constitution of the United States, and the maintenance of

our free institutions and the perpetuity of the Union depends upon the preservation of the right of local self-government, unimpaired to all the states.

"A truth will always remain a truth even if there is only one person claiming for it, and no one is up to believe it. In today's world, it has been really easy to manipulate statements, but it is essential to understand that even if no one believes a truth, it will still remain a truth." At time © Source:

<https://www.quotespedia.org/authors/u/unknown/the-truth-is-still-the-truth-even-if-no-one-believes-it-a-lie-is-still-a-lie-even-if-everyone-believes-it-unknown/>

VII. THE GOVERNMENT HAD NO STATUTORY AUTHORITY WITHIN THE TERRITORIAL JURISDICTION OF THE STATE OF TEXAS, TO INSTITUTE CRIMINAL PROCEEDINGS AGAINST THE PETITIONER WHERE THE FEDERAL COURTS LACK SUBJECT MATTER AND LEGISLATIVE JURISDICTION OVER THE SITUS OF THE CLAIMED OFFENSE.

"There is in these police matters no such thing as a divided sovereignty, jurisdiction is vested entirely in either the state or the national, and not divided between the two." *In the Matter of the Application of Albert Jeff*, 197 U.S. 488 (1905) Id at 506 Unless otherwise provided by statute, and while within the territorial jurisdiction of the "State of Texas", Special Agents of the Bureau of Alcohol Tobacco and Firearms, have only limited statutory powers to arrest, seize, and search, relating to criminal offenses against the "State of Texas", pursuant to the express terms of Section § 2.122, Texas Code of Criminal Procedure, which prescribes in relevant parts:

Sec. 2.122 - SPECIAL INVESTIGATORS

a. The following name criminal investigators of the United States shall not be deemed peace officers but shall have the power of arrest, search, and seizure [**under the laws of the state**] as to felony offenses only: (Emp added)

(2) Special Agents of the Secret Service

(4) Special Agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives;

(g) in addition to the powers of arrest, search, and seizure under subsection (a), a Special Agent of the Secret Service protecting a person described in 18 U.S.C. section 3056(a) or investigating a threat against a person described by 18 U.S.C. Section 3056(a), has the power of arrest, search, and seizure as to:

1. Misdemeanor offenses under the laws of this state;
2. Any criminal offense under federal law.

In accordance to the statutory terms of Subsection (g)(2), Texas Code of Criminal Procedure, § 2.122 limits the powers to arrest, search, and seizure for any criminal offense under ["federal"] law while within the territorial jurisdiction of the "State of Texas", exclusively to Special Agents of the Secret Service, [only], and more specifically, while in the performance of investigative or protective duties of the President and or Vice-President of the United States. Accordingly, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, had absolutely no authority under Texas law to, (1) investigate offenses against federal law while in Bracketville, Texas, or; (2) institute criminal proceedings against Mr. Anderson in the federal courts premises on the incident that occurred on or about March 8, 2022 within the Pizza OutPost parking lot. "Congress can no more regulate the jurisdiction of the state tribunals, than a state can define the judicial power of the Union. The officers of each government are responsible only to the respective authorities under which they are commissioned." *Prigg v. the Commonwealth of Pennsylvania*, 41 U.S. 539, 664 (1842)

The Government in the instant matter has failed to establish the subject-matter jurisdiction of the federal court. "Accordingly, if a plaintiff's allegations of jurisdictional facts are challenged by the defendant, the plaintiff bears the burden of supporting the allegations by competent proof. " *Thomson v. Gaskill*, 315 U.S. 442, 446 (1942). "Jurisdiction must appear positively. It is not enough that it may be inferred argumentatively. *Brown v. Keene*, 8 Pet. 112;

Robertson v. Cease, supra. ” *Continental Ins. Co. v. Rhoads*, 119 U.S. 237, 240 (1886). The Government must bring forth proof by cession that jurisdiction to the locus has been ceded by the State of Texas, to the United States. The phrase “In the Western District of Texas”, as delineated in the indictment is of itself insufficient for establishing the subject-matter jurisdiction of the federal courts. This is because locus 302 W. Military Hwy, Bracketville, Texas 78832 is NOT a federal enclave, is NOT a federal territory, is NOT a federal district, is NOT a federal insular possession, is NOT within the territorial coastal waters or airspace of the United States. For these reasons cited, Special Agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, were limited to the statutory powers only authorized to "peace officers" within the territorial jurisdiction of the State of Texas, as prescribed by Section § 14.03(d), Texas Code of Criminal Procedure, which commands in relevant part:

A peace officer who is outside his jurisdiction may arrest, without a warrant, a person who commits an offense [within the officer's presence or view], [if] the offense [is a felony], a violation of chapter 42 or 49, Penal Code, or a breach of the peace. A peace officer making an arrest under the subsection shall[], as soon as practicable after making the arrest, notify a law enforcement agency having jurisdiction where the arrest was made. The law enforcement agency shall then take custody of the person committing the offense and take the person before a magistrate in compliance with article 14.06, of this code, and- (Emp added)

(3)(B)

Any property seized during or after the arrest as if the property had been seized by a peace officer of that law enforcement agency.

It is true that “when a federal court has jurisdiction, it also has a ‘virtually unflagging obligation to ... exercise’ that authority.” *Ibid.* (quoting *Colorado River Water Conservation Dist. v. United States*, 424 U.S. 800, 817, 96 S.Ct. 1236, 47 L.Ed.2d 483 (1976)). But that “unflagging obligation” arises only if a court actually has jurisdiction. Federal courts have no obligation to seek out jurisdiction, nor should they misconstrue filings to satisfy jurisdictional requirements. Rather, federal courts should “presume that [they] lack jurisdiction unless the contrary appears

affirmatively from the record.” See *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 342, n. 3, 126 S.Ct. 1854, 164 L.Ed.2d 589 (2006). And they should apply the ordinary rule that the party asserting federal jurisdiction bears the burden of proving that jurisdictional prerequisites are met. *Ibid. Mata v. Lynch*, 135 S. Ct. 2150, 2157-58 (2015)

The Framers of the Constitution rejected the concept of a central government that would act upon and through the states. *United States v. Mack*, 521 U.S. 898 (1997). A law that violates State sovereignty principles is not a law "proper for carrying into execution" delegated powers within the Necessary and Proper Clause, meaning of Art. 1, Sec. 8. Nor does the Supremacy Clause allow such conduct, whereas, "Law of the Land", means only "Laws of the United States which shall be made in [pursuance] of the Constitution", Art. VI, cl. 2. Id C. (Emp added). Federal authorities have for a great period usurped the sovereignty of the State of Texas, in a manner so severe that on May 20, 2021, the legislative body for the State of Texas, issued a "Notice" upon the United States, declaring Texas' sovereignty under the Tenth Amendment, and commanding that the federal government immediately reverse its unconstitutional course of conduct in regards to its blatant violation against Texas state sovereignty. SEE- (SCR 12) <https://capitol.texas.gov/tlodocs/87R/billtext/html/SC00012F.HTM>

The Government's usurpation of Texas sovereignty deprive Mr. Anderson of due process of law as guaranteed to him by Amendments Five and Fourteen, to the Constitution of the United States of America, and Art. 1. Sec 19, and the Constitution of the State of Texas. Accordingly, the conduct of the Government, inadvertently deprived the U.S. District Court for Western the District of Texas, jurisdiction over the subject-matter and ultimately over the person of the Mr. Anderson.

VIII. CONCLUSION


The Constitution's conferral upon Congress of not a governmental power, but only discrete, enumerated ones, Art. 1, § 8, which implication was rendered expressed by the Tenth Amendment's assertion that, "[t]he Powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the People." However, the freedoms and rights embodied within the Constitution are not self-enforcing. The People, through the power of their vote and taxes, rely upon the authority vested in the courts of the United States to ensure that the demands of the Constitution remain in compliance.

IX. PRAYER

For all the reasons presented within this Petition, Mr. Anderson prays that the Writ of Habeas Corpus Ad Subjiciendum, is issued, and all other relief that this Court determines to be equitable and just, be Granted.

Date: August 31, 2022

Respectfully Submitted,


/s/ Mark Lieberman

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CERTIFICATE OF SERVICE

I hereby certify that, on August 30, 2022, this motion was filed via the Court's electronic filing system, which constitutes service upon all counsel of record.

A handwritten signature in black ink, appearing to read "Mark Lieberman", is written over a horizontal line.

MARK LIEBERMAN

COUNSEL FOR TERRY DEAN ANDERSON